

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

5:08cv136

SECURITIES AND EXCHANGE)
COMMISSION,)
Plaintiff,)
)
v.)
)
BILTMORE FINANCIAL GROUP, INC.,)
and J. V. HUFFMAN, JR.,)
Defendants,)
)
and)
)
GILDA BOLICK HUFFMAN,)
Relief Defendant.)
_____)

ORDER

THIS MATTER is before the court upon the Receiver's Motion to Sell Personal Property Free and Clear of All Liens, Claims, and Encumbrances (Document #25), filed April 16, 2009. A hearing on this matter was held May 14, 2009. Having considered the motion, the authorities in support, and the relevant exhibits, the Court concludes that the Motion should be granted. It is therefore **ORDERED, ADJUDGED, AND DECREED** that:

1. The Receiver is authorized to sell the following property ("Property") by private sale, pursuant to 28 U.S.C. §§ 2001 and 2004: (1) a Mercedes Benz S65 AMG, (2) a Mercedes Benz CLK63 AMG, (3) a Mercedes Benz GL550, and (4) an Aston Martin DB9.

2. Pending confirmation, the Receiver is authorized to sell to Leith Mercedes ("Leith"), by private sale, the following automobiles for the following contract prices: (1) a Mercedes Benz S65 AMG for a contract price of \$80,000.00; (2) a Mercedes Benz CLK63 AMG for a contract price of

\$40,000.00; and (3) a Mercedes Benz GL550 for a contract price of \$50,000.00.

3. Pending confirmation, the Receiver is authorized to sell to Foreign Cars Italia ("FCI"), by private sale, the following automobile for the following contract price: an Aston Martin DB9 for the contract price of \$105,000.00.

4. As required by 28 U.S.C. § 2001, the Receiver had the fair market value of the Property evaluated by three appraisers. The court finds that the appraisers who conducted these valuations were disinterested and were qualified to perform the appraisals. Accordingly, the court ratifies the Receiver's choice of appraisers and finds that these appraisals satisfy the requirements of 28 U.S.C. § 2001(b). The court authorizes the Receiver to pay the appraisers out of the closing proceeds of the sale.

5. The average of the fair market value appraisals for each automobile was (1) \$99,774.58 for the Mercedes Benz S65 AMG; (2) \$47,538.08 for the Mercedes Benz CLK63 AMG; (3) \$69,554.72 for the Mercedes Benz GL550; and (4) \$130,600.00 for the Aston Martin DB9. As required by 28 U.S.C. § 2001(b), the contract price for each automobile is greater than two-thirds of the automobile's appraised value.

6. Once confirmed, the sales of the Property shall be free and clear of all liens and interests.

7. The sale of the Property shall be advertised each day for at least ten (10) days in a daily newspaper of general circulation in Catawba County. Such notice shall contain a description of the Property to be sold, shall contain the Receiver's contact information to be used by anyone interested in buying the Property, and shall contain the terms and conditions of sale in this order and decree. The Receiver is further ordered to place a similar notice on cars.com, or on another similar, national, on-line car classified service.

8. If an individual other than Leith or FCI desires to purchase one or more of the automobiles covered by this order, the individual (or his representative) must contact the Receiver before confirmation of this sale. No offer to purchase the Property by an individual other than Leith or FCI shall be accepted unless the same is accompanied by a certified check or a cash deposit of at least ten percent (10%) of the amount of the offer, and unless the offer is of an amount at least ten percent (10%) greater than the contract price to be paid by either Leith or FCI. If the sale is to a party other than Leith or FCI, the balance of the purchase price must be tendered to the Receiver within 15 days (excluding weekends and federal holidays) following the offer to purchase. If the balance is not tendered within this time, the deposit made shall be forfeited and retained by the Receiver as proceeds from the sale.

8. Proceeds from the sale shall be used first to cover the costs of the sale and second to pay the appraisers, with the balance of the proceeds to be applied to the Receivership Estate.

9. The Receiver shall submit a motion to this court to confirm the sale of the Property after the requirements set forth in this order have been fulfilled.

Signed: May 15, 2009



Richard L. Voorhees
United States District Judge

